

Public hearing in Brazilian constitutional jurisdiction: the environmental problem

The hearings were foreseen as a mechanism for consulting specialists to clarify matters or factual circumstances. Therefore, it is extremely important that issues related to the environment are included in this area. The present study aimed to analyze the participation of specialists in the field of the environment in public hearings held from 1997 to 2021, within the scope of the Federal Supreme Court and the repercussion of their speeches in the legal debate. Up to the date of this research, 35 public hearings were held, of which 7 deal with issues related to the environment, in their various interdisciplinaritys. A systematic analysis of the entire content of the judgments involving the aforementioned theme was carried out, highlighting the number of experts heard in each process, their titration degree and the mention of words, such as public hearing, referred to in the entire content of the judgments judged. After more than thirty years of environmental protection as a fundamental right, set out in its own chapter and in other constitutional provisions, despite the protection of the highest normative instrument of our legal system, several illicit acts were perpetrated, causing damages that are difficult to repair, such as the issue of the Brumadinho and Mariana dams, in Minas Gerais. In this sense, the object of this study aims to evaluate whether the participation of the various sciences of knowledge contributed positively to the defense of the environment in the public hearings convened by the Brazilian Constitutional Court, when the matter involves any violation of the environment, and if the contributions of the heard academics were used as a basis for the Court's decision, thus functioning as an effective defense of the environment by civil society, through this institute of participatory democracy. Finally, the survey method was used in order to obtain information about the level of awareness, sensitization and perception of the theme in teachers, students and professionals of science related to the environment.

Keywords: Public Hearing; Environment; Participatory Democracy; Interdisciplinarity.

Audiência pública na jurisdição constitucional brasileira: o problema ambiental

O presente estudo teve por finalidade analisar a participação de especialistas na área do meio ambiente nas audiências públicas realizadas nos anos de 1997 a 2021, no âmbito do Supremo Tribunal Federal, e a repercussão de suas intervenções no debate jurídico. Até a data desta pesquisa, foram realizadas 35 audiências públicas, das quais 7 tratam de questões referentes ao meio ambiente, em suas diversas interdisciplinaritys. Foi realizada a análise sistemática do inteiro teor dos acórdãos que envolviam a citada temática, sendo destacados o número de especialistas ouvidos em cada processo, seu grau de titulação e a menção a palavras, como audiência pública, referidas no inteiro teor dos acórdãos julgados. Passados mais de trinta anos da tutela do meio ambiente como direito fundamental, destinado em capítulo próprio e em outros dispositivos constitucionais, em que pese a salvaguarda do mais alto instrumento normativo do nosso ordenamento jurídico, foram perpetrados vários ilícitos, ocasionando danos de difícil reparação, como a questão das barragens de Brumadinho e Mariana, em Minas Gerais. Neste sentido, o objeto do nosso estudo, visa avaliar se a participação das várias ciências do saber contribuíram positivamente para a defesa do meio nas audiências públicas convocadas pela Corte Constitucional Brasileira, quando o assunto envolve qualquer violação ao meio ambiente, e se as contribuições dos acadêmicos ouvidos foram utilizadas como fundamento para decisão da Corte, funcionando, assim, como uma efetiva defesa do meio ambiente pela sociedade civil, por meio deste instituto da democracia participativa. Por fim, foi utilizado o método survey com o intuito de obter informações a respeito do nível de conscientização, sensibilização e percepção da temática em docentes, discentes e profissionais do meio ambiente e de ciências correlatas.


Palavras-chave: Audiência Pública; Meio Ambiente; Democracia Participativa; Interdisciplinarity.


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INTRODUCTION

The ecologically balanced environment was considered a fundamental right by the Federal Constitution of 1988, which established that everyone has the right to an ecologically balanced environment, a good for common use by the people and essential to a healthy quality of life, imposing itself on the Public Power and to the community the duty to defend and preserve it for present and future generations (art. 225, CF/88).

Not being enough to have its own chapter dealing with the environment, the constituent also regulated other issues, such as the competence to legislate on environmental issues; the legitimacy to postulate the defense of the environment in court; the procedural means of its defense; the defense of the environment as one of the general principles of economic activity (sustainability); the establishment of the necessary regulation of the mining activity in compliance with the protection of the environment; the social function of rural property, with the proper use of natural resources and preservation of the environment; establishing, also, that the SUS is responsible, in addition to other attributions, to collaborate in the protection of the environment, including work environment (health, safety and hygiene); and, when dealing with social communication, it determined the regulation of products advertising, practices and services that could be harmful to health and the environment.

All the above themes, which involve the environment, are under the protection of the Constitution and established, respectively, in art. 5, item LXXIII; art. 23, Inc. SAW; art. 24, Inc. VI and VIII; art. 129, Inc. III; art. 170, Inc. SAW; art. 174, § 3; art. 186, Inc. II; art. 200, Inc. VIII and art. 220, § 3, inc. II CF/88 (BRASIL, 1988).

From the above, the interdisciplinarity of the environment can be observed, which interferes with the right to private property, the right to free enterprise, as well as the right to health, and, in addition to them, which implies the complexity of understanding the analysis of specific issues, which depend on serious and impartial study, for the interest of the community, which can be done through contributions from the various academic areas in participation in public hearings held at the Federal Supreme Court.

After more than 30 (thirty) years since the promulgation of the Citizen Constitution, and despite all the constitutional norms foreseen for the protection of the environment, one has to wonder why, in the recent history of our country, we see so many ecological disasters of catastrophic proportions, such as the rupture of the Mariana and Brumadinho dams, as well as the oil spill on the northeastern coast, without identifying the culprits, and also the existence of illegal fires and mining in the Amazon.

The right to a balanced environment concerns the whole community, and therefore its protection is of interest to all, without distinction. They are considered meta-individual rights, intended for the protection of the human race, and fall under third-generation constitutional rights. We still have other generations treated by the constitutional legal doctrine, but that escapes the object of the present study, being the reason why it is not approached.

Within this perspective, no academic work that analyzed the judgments of the Brazilian Constitutional Court was found, with this specific cut of academic participation in public hearings involving

the environment, as well as the analysis of its effectiveness for the defense of this fundamental right, being the very reason of the present investigation.

Attentive to these questions, and in the observance that the protection of Brazilian constitutional norms, in concentrated and diffuse control, is the responsibility of the Federal Supreme Court, our analysis will be in the constitutional jurisdiction, in the specific cut of public hearings, a mechanism of direct democracy, when analyzing if this institute effectively lends itself to the defense of this fundamental right,

To carry out this work, a search was made in the database of the Federal Supreme Court of Brazil, on the page that refers to public hearings held by the Brazilian Constitutional Court (BRASIL, 2022) from the year of the first hearing, in April 2007, until December 2021. As well, an exploratory study with the application of a Survey, in which the questionnaires were intended for graduate professionals, undergraduates and teachers in areas of science related to the environment. The collected data were treated by means of descriptive statistics, aiming to identify whether the analyzed population was aware of the public hearing, their potential participation by chance, to which area of knowledge the participants were related, if there were laboratories in the academies and to which region of the country the participants were linked, in order to obtain information about the level of awareness, sensitization and perception of the theme.

It is worth remembering that health problems may have triggered the COVID-19 pandemic, and that, therefore, issues related to a balanced environment, such as basic sanitation, drinking water, adequate solid waste collection, fires and so many other factors, have direct repercussions on the quality of our present and future generations lives, guidelines established in the global action plan, promoted by the United Nations, in the 2030 Agenda for Sustainable Development, which have been adopted by the STF (BRASIL, 2022).

THEORETICAL REVIEW

Public Hearings

It is important to note that the hearings were intended as a mechanism for consulting experts to clarify a matter or factual circumstance. Its provision is contained in two ordinary laws approved in 1999 (Law 9,868 and Law 9,882), which aim to provide for the main mechanisms of abstract control of constitutionality in Brazilian law. In 2007, when the first hearing was held, there was no specific regulation on the procedure to be followed for its holding. In this normative vacuum, then Minister Carlos Ayres Britto, rapporteur of the first case, invoked the application of the parameters on public hearings provided for in the Internal Regulations of the Chamber of Deputies. Two years later, with the Regimental Amendment no. 29/2009, the Court's Internal Regulations were amended and started to provide specific provisions on the form of summons and the matters object of public hearings. From then on, the possibility of calling them to any procedural class was expanded (LEAL et al., 2018).

During the ten years of actual functioning of the institute, the view was consolidated that public hearings fulfill a dual function in the decision-making practice of the STF. On the one hand, the hearings provide the ministers with information specific to the scientific domain, considered crucial for the legal

solution of a given problem. In this respect, hearings serve the purpose of compensating for the epistemic deficits of decision-makers who need to determine how the law should deal with problems that are not properly legal. On the other hand, public hearings are seen as mechanisms for civil society access and participation in the court (LEAL et al., 2018).

The speeches broadcast by the ministers in the first public hearings suggested an opening for popular participation that, based on their contributions, would bring greater legitimacy to the Court's future judgments and, consequently, a democratization of the judicial process (GUIMARÃES, 2020).

In the case of the Federal Supreme Court, in addition to the mandatory action of the General Attorney of the Republic and the General Attorney of the Union in various actions, there is the possibility of convening public hearings and the action of *amici curiae*. Last but not least, court decisions need to be motivated. This means that, in order to be valid, they can never be an act of pure discretionary will: the legal order imposes on the judge of any degree the duty to present reasons, that is, the grounds and arguments of his reasoning and conviction (BRASIL, 2015).

In the scenario of Brazilian constitutional jurisdiction, a matter of exclusive competence of the STF, the processes are only admitted for consideration by that Court when the analyzed matter presents the so-called general repercussion.

General repercussion is a procedural instrument that allows the Federal Supreme Court to select the Extra Resources that will be analyzed, according to the criteria of legal, political, social or economic relevance. The use of this appeal filter results in a decrease in the number of cases forwarded to the STF, since, once there is general repercussion, the Court analyzes the merits of the matter and the decision resulting from this analysis will be applied later by the lower courts, in identical cases. The legal basis of this institute is contained in articles 102, § 3, of CF/1988 and article 1,035 of CPC/2015 (BRASIL, 2015).

However, there are such cases in which public hearings are not convened. And at this point we need to know who has the legitimacy to do so, when and how.

Who can summon them will be the Rapporteur to whom the case is distributed, or the President of the STF, under the terms of Laws 9868/1999, 9882/99 and the Internal Regulations of that Constitutional Court (BRASIL, 1999).

Regarding the individual participations, it is important to emphasize two points. The first is that the presence of individuals who are not formally representing any specific interest group is high. Over 18% of the participants. The second is that the presence of individuals without group representation is something recurrent in public hearings: only in five of them (Pneus Usados, Lei Seca, Queimadas em Canaviais, Regime Proisional and Religious Education in public schools) this category was absent (GUIMARÃES, 2020).

It is also possible that certain cases that require the discussion of a technical or scientific matter or circumstance are not even referred to any epistemic authority, being resolved through independent research carried out by the judges themselves and their advisors. Therefore, cases such as Precautionary Action 4081, regarding the obligation to supply the substance Phosphoethanolamine, in which Minister Lewandowski chose to request an opinion from the National Cancer Institute (INCA), although it effectively engaged the

community of technicians and scientists, will not be object of our analysis. The same applies to cases such as Extraordinary Appeal No. 635,659, on the criminalization of possession of drugs for personal use. Although a lot of technical and scientific information was offered on the court floor by the amici curiae, and also independently by the ministers themselves to support their decisions, no form of consultation with specialists provided for in the Internal Regulations was carried out (LEAL et al., 2018).

It is important to highlight that this instrument of democratic participation is also present in other Latin American countries, such as Argentina, as shown in the excerpt below:

La audiencia pública se encuentra prevista por los reglamentos de ambas cámaras del congreso de la nación; los reglamentos de ambas cámaras la prevén. El reglamento de la cámara de diputados, en su art 114 bis (“las comisiones podrán realizar audiencias públicas y abrir foros y video-chat de debates virtuales con la finalidad de conocer la opinión de la ciudadanía en general, personas públicas y de carácter público o privado y organizaciones de la comunidad, sobre materias de su competencia”) y el reglamento de la cámara de senadores, en su art. 99 (“las comisiones pueden convocar a audiencia pública cuando deban considerar proyectos o asuntos de trascendencia pública. A los efectos de este reglamento, se considera como el proceso de toma de decisión legislativa, en cual se habilita un espacio para que todas las personas u organismos no gubernamentales que puedan verse afectados, o tengan un interés particular, expresen su opinión. Esta instancia servirá para que la comisión encargada del estudio de un asunto o proyecto acceda a las distintas opiniones sobre el tema, en forma simultánea y en pie de igualdad, a través del contacto directo con los interesados. En los casos en que lo consideren necesario, las comisiones pueden recurrir a expertos en los temas a tratar para que éstos faciliten la comprensión, desarrollo y evaluación de los mismo”). (BERCHOLC et al., 2016)

Since the right to a balanced environment is a fundamental right, Professor Paulo Bonavides clarifies the importance of protecting this type of right in the legal system of a country:

From this internal point of view, human rights become equivalent to natural rights, while fundamental rights are certain positive rights, of a higher degree, attributed by the State to its citizens. The Weimar constitutionalism famously walked in this direction. However, it seems to us that it is indifferent to use the expressions “human rights” and “fundamental rights”, as long as their use invariably contemplates the superlative quality of these rights in the legal hierarchy. Another point frequently mentioned in the curious theme of fundamental rights, defined as temporal and dimensional categories (consider the terms generation and dimension), is that, placed in a temporal reference, as the generation of rights, they are neither excluded nor extinguished; on the contrary, they remain and accumulate, filling the legal order that established them with freedom, equality and justice. This may, perhaps, justify the preference of some publicists for the word dimension instead of generation, to designate the successive layers of appearance of human or fundamental rights. (BONAVIDES, 2010)

METHODOLOGY

The research was based on a mixed method configuration, a combination of qualitative and quantitative methods (PARANHOS et al., 2016), in an exploratory structure, carried out through data collection, through the survey method, in order to obtain information about the level of awareness, sensitization, perception of the theme of professionals from related areas, teachers and students.

Primary Data Survey

The first stage of the research, of a qualitative-quantitative nature, was carried out through the inductive explanatory method, in a systematic search, on the STF website, of the entire content of the

judgments, in which public hearings whose theme involved the defense of the environment were held, as well as the survey of data from the experts consulted, on the CNPQ website, through a search in the lattes curriculum.

The inner content of the judgment is composed of the full text of the decision, with the summary of the judgment, the reports, votes of the Brazilian constitutional court ministers who participated in the judgment and the extract of the minutes of the decision on the merits.

We analyzed the 35 (thirty-five) judgments carried out before the Brazilian Constitutional Court in which public hearings were convened, in concentrated or diffuse control of constitutionality. The trial files are all available on the website of the Federal Supreme Court (BRASIL, 2022).

The research cut took into account the right to the environment as an object of constitutional judicial protection, which is why of the 35 (thirty-five) hearings held during the data collection period, 7 (seven) were related to the environment, and had public hearings held. However, only 5 (five) of them had a judgment of merit up to the time limit of this research, which is why only the 2 (two) last themes, referring to the climate fund and the Amazon fund will be outside the analysis of the present work.

According to Table 1, we see that out of a universe of 35 (thirty-five) public hearings held in Pretorio Excelso, until December 2021, 7 (seven) deal with the environment, as mentioned above, which represents 20% (twenty) per percent of the sample.

This shows the importance of the present study in the analysis of the influence of this institute of participatory democracy, and the consequent relevance of the role of specialists who work in areas of science related to the environment to clarify the details that involve such relevant and interdisciplinary topics.

Table 1: Environment themes public hearings.

PUBLIC HEARINGS	ENVIRONMENT THEMES
Nº 02	USED TIRES IMPORT
Nº 07	FORBIDDING OF ASBESTOS
Nº 9	LINES OF ENERGY TRANSMISSION ELECTROMAGNETIC FIELD
Nº 10	BURNING OF SUGARCANES
Nº 19	NEW FOREST CODE
Nº 30	CLIMATE FUND AND PUBLIC POLICIES IN ENVIRONMENTAL MATTERS
Nº 31	AMAZON FUND AND THE IMPLEMENTATION OF PUBLIC POLICIES IN ENVIRONMENTAL MATTERS

So that the added value is not diluted, the proposed sociological and institutional perspectives must be added to this flow of the jurist, which allow us to analyze institutions and agents from their real behavior in the political bid and in the exercise of jurisdictions faculties that are their own. And so, complete a more sophisticated framework that overcomes the biases that are observed in the intervention of professions related to legal themes (BERCHOLC, 2016).

The collected data started on April 20, 2007, and the public hearing nº 2 was the first trial with a focus on the environment, which took place on 7.27.2008, whose theme involved the importation of used tires, in ADPF 101 (non-compliance action of fundamental precept), and the last public hearing on the environmental theme was nº 31, referring to the functioning of the Amazon Fund and the implementation of public policies on environmental matters, which took place on 09/24/2020 and 11/04/2020, whose

judgment on the merits, as stated, has not yet taken place. Finishing the data collection of this work on 12.31.2021.

Since the State Judge's response time is a sensitive issue, notably when talking about the environment, it is important to draw a parallel between the date of the public hearings and the judgment on the merits of the case, that is, the effective judicial provision, whose object of the present study aims to verify, precisely, the influence of the participation of specialists in the different areas and the interdisciplinarity, in the defense of the environment, which is why comparisons were made between the 5 public hearings held and the effective judgment of the merits of the case.

According to Sancari (2020), there must be a careful agreement between concepts and empirical references, through the conceptual definitions we indicate the investigation units and those among which their properties interest us. These will be none other than the variables to be investigated.

Among the 5 (five) selected decisions, systematic searches were carried out in keywords that indicated the relevance of what was added to the process by the specialists in the public hearing, in the context of judicial protection of the environment. The keywords were used in the pdf file search system, in the entire content of the judgment, available on the STF website, taking into account terms and concepts, representative of this research, both legal and related to the environment, the latter extracted from the Vocabulary of Natural Resources and the Environment (IBGE, 2004), in the following order:

RESULTS AND DISCUSSION

Hearing analysis

First (1st) keyword - Public hearing - this word contains the most important keyword of the research, insofar as we can observe a quali-quantitative increase in the number of occurrences in the entire content of the judgment from the first public hearing to the second and an oscillation, according to the matter, among all the judgments, demonstrating that in certain judgments the public hearing had a relevant emphasis on the reasons for deciding the Brazilian Constitutional Court, as in the special case of the prohibition of the use of asbestos, with 41% of citations of this word among the judgments researched.

It is important to highlight that the following themes are mentioned when referring to the public hearing keyword: Topic nº 2 – prohibition of used tires, Topic nº 7 – prohibition of the use of asbestos; Theme nº 9 - electromagnetic field of power transmission lines; Topic nº 10 - burning of sugarcane and Topic nº 19 - New forest code, as shown in Figure 1 below.

Which, in turn, is a specific concept of the sciences related to the environment, which is described in the Vocabulary of Natural Resources and the Environment:

Asbestos - trade name for a heterogeneous group of minerals easily separable into fibers of the serpentine family - chrysotile- and amphibole - crocidolite, amosite, anthophyllite, actinolite and tremolite. Asbestos (IBGE, 2004).

Second (2nd) keyword - Specialist - for that matter, we seek to identify whether the contributions of

academic professionals, who participated in the studied public hearings, contributed in some way to substantiate the Supreme Court's reasons for the decision, by systematically searching the entire content of the judgments, the result of which, in the 5 hearings, was as follows (Figure 3).

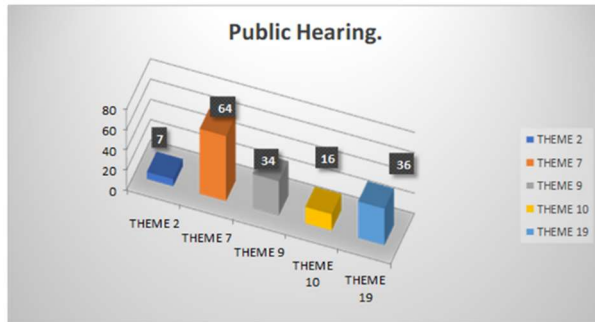


Figure 1: Public Hearing.



Figure 3: Specialist.

Once again, theme nº 7 – prohibition of the use of asbestos – was the one that had the highest occurrence of this analyzed variable.

Third (3rd) keyword - environment - word used as the thematic cut of our research, according to the Vocabulary of Natural Resources and Environment (IBGE, 2004), is the set of physical, chemical, biological agents and social factors susceptible to exert a direct or even indirect, immediate or long-term effect on all living beings, including mankind, whose occurrence is delimited in the five judgments (Figure 4):

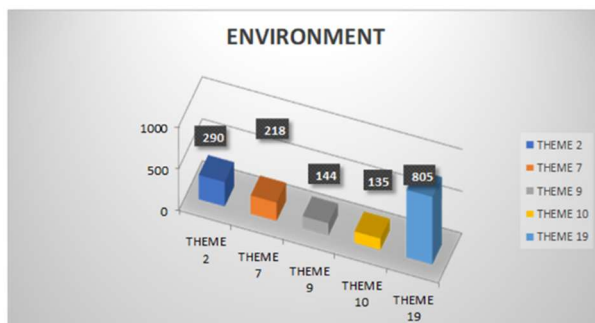


Figure 4: Environment.

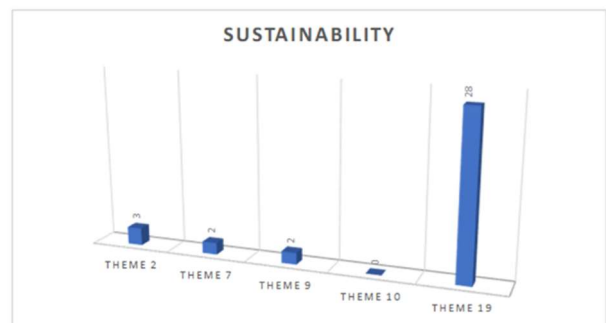


Figure 5: Sustainability 1.

As can be seen from the figure above, its highest incidence was in theme nº 19, on the new forest code.

Fourth (4th) keyword – sustainability – likewise, in the Vocabulary of Natural Resources and Environment, it is associated with Sustainable Development, involving the ideas of an intergenerational pact and a long-term perspective. Sustainability is the ability of a process or form of resource appropriation to continue to exist for a long period (IBGE, 2004). And the occurrence of this variable is distributed like this (Figure 6).

There were also more occurrences of this variable in theme 19, about the new environmental code. Fifth (5th) keyword - sustainable development - development paradigm that emerged from the discussions in the 70s and 80s of the 20th century on the limits to the growth of the human population, the economy and the use of natural resources. Sustainable development seeks to integrate and harmonize ideas and concepts related to economic growth, justice and social well-being, environmental conservation and the

rational use of natural resources. To do so, it considers the social, environmental, economic and institutional dimensions of development. The term Sustainable Development appeared in 1980 in the publication *World Conservation Strategy: living resource conservation for sustainable development*, prepared by the International Union for Conservation of Nature and Natural Resources (IUCN), in collaboration with the United Nations Environment Program (UNEP) and other international institutions. Consensus has not yet been reached on its concept, which has changed very quickly and is under construction. In social terms, sustainable development proposes a fairer distribution of the produced wealth (social justice), universal access to education and health, and equity between the sexes, ethnic, social and religious groups, among other aspects. To be sustainable, development must mean an improvement in the quality of life of the entire population, ensuring dignified living conditions for all and social justice. From an environmental point of view, sustainable development proposes the parsimonious use of natural resources, in order to guarantee their use by future generations. To this end, it proposes that renewable natural resources be used below their capacity for renewal, and non-renewable resources sparingly, allowing their use for a maximum of time and generations. It also proposes the preservation of significant samples of the natural environment, in order to guarantee the maintenance of the environmental services that these areas provide and the quality of life of the surrounding population. One of the characteristics of this new development paradigm is the commitment and concern for the living conditions of the next generations. As for the economy, sustainable development postulates growth based on increased efficiency in the use of energy and natural resources. Sustainable development also postulates changes in society's consumption patterns and production patterns, with the reduction of waste and greater awareness of the impacts caused by the use of natural resources. In institutional terms, sustainable development assesses the degree of society's participation and control over public and private institutions, the state's equipment to deal with environmental issues, the involvement in international agreements, the amount of investment in environmental protection, science and technology and access to new technologies. The institutional dimension deals with the political orientation, capacity and effort expended by society in order to carry out the necessary changes for the effective implementation of this new development paradigm. In this new paradigm, the word development takes into account not only the growth of economic activity, but also social and institutional improvements and environmental sustainability, ultimately seeking to guarantee the well-being of the population in the long term, ensuring a healthy environment for future generations (IBGE, 2004).

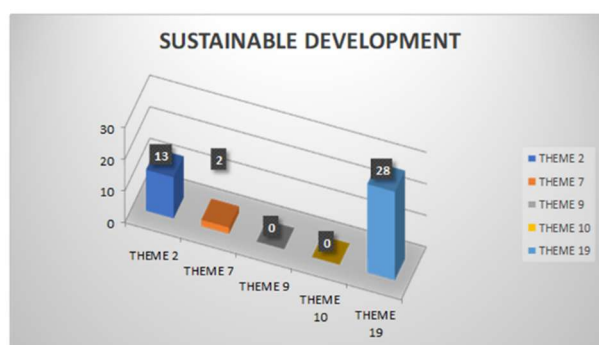


Figure 7: Sustainable development - Agenda 2030.

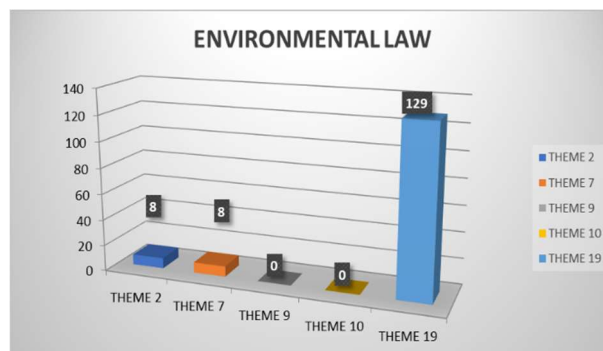


Figure 8: Environment Law.

In its processes, the STF adopted the SDGs of Agenda 2030 for a sustainable judiciary, however, in none of the judgments were they mentioned, despite the fact that the pages referring to some full content contain the SDGs of the matters analyzed there, but symbolically considered. When dealing with judgments in kind, we will see in which there was the indicative on the page of the judgment.

Sixth (6th) keyword - environmental law - a set of techniques, rules and legal instruments systematized and informed by appropriate principles, aimed at the discipline of behavior related to the environment (IBGE, 2004).

Once again, theme nº 19 was the one that had the most occurrence of the researched variable, as illustrated by Figure 8.

The deliberative and decision-making processes in constitutional courts and supreme courts can vary widely: sessions can be public or reserved, dissenting votes can be allowed or prohibited, the decision can be per curiam or seriatim, there can be discretion in choosing cases or not, among other variables. Faced with such a diverse scenario, one of the biggest constants is the existence of a reporting judge for each case to be decided by these courts. Of course, there is variation in the criteria for choosing the reporting judge – lottery, choice by the president, specialization – , but the existence of a judge in charge of reporting each case seems to be natural for almost all constitutional courts and supreme courts (SILVA, 2016).

In our legal system, the procedure to be observed is set out in art. 154, sole paragraph, of the Internal Regulations of the STF¹, leaving a margin of discretion for the Rapporteur to establish the premises of this call.

For each action, a reporter is randomly selected by drawing lots. Its main functions are to prepare an action report (through which the other ministers are informed of in advance to the section), request a date for the judgment of the actions under its responsibility and cast the first vote in plenary. There is a precedence of this figure in every decision, since he maintains a knowledge of the process distinct from the other ministers and, in addition, is the first to vote (DUARTE et al., 2015).

It should be noted that this participatory citizenship institute took place remotely, during the pandemic period, involving extremely relevant environmental themes, namely: the climate fund and the Amazon fund, themes 30 and 31, respectively. This reinforces the novel concept of digital or virtual democracy, which is not the object of the present study, but it is important to point out this particular aspect.

In this regard, the following transcript is important:

Those who were previously studying some research should give a new treatment to their themes, investigating how this problem has impacted their object of study; not only with regard to the changes brought about from the point of view of methodology and

¹ STF Internal Rules. Art. 154. The hearings will be public: (...)

Sole paragraph. The hearing provided for in item III shall observe the following procedure:

I – the order that convenes it will be widely publicized and will set a deadline for the indication of the people to be heard;

II – if there are defenders and opponents in relation to the subject matter of the hearing, the participation of the different currents of opinion will be guaranteed;

III – it will be up to the Minister who presides over the public hearing to select the persons who will be heard, to publish the list of qualified people, determining the order of the work and setting the time that each one will have to speak;

IV – the deponent must limit himself to the topic or issue under debate;

V – the public hearing will be broadcast by TV Justiça and Rádio Justiça;

VI – the works of the public hearing will be recorded and added to the case file, when applicable, or filed within the scope of the Presidency;

VII – the omitted cases will be resolved by the Minister who convenes the hearing.

investigation techniques to study social actors and public policies, but also in their own values and beliefs. For those who are just starting out: for a long time they won't be able to talk about anything else. The interest of the academic and scientific society thus denotes. (SANCARI, 2020)

Below, topics with general repercussions in environmental matters that are being processed or have been processed before the Brazilian Constitutional Court are listed, however, there were no public hearings, and civil society participation in these processes was not possible.

Theme 145 - a) Competence of the Municipality to legislate on the environment; b) Courts of Justice jurisdiction to exercise control over the constitutionality of municipal rules in light of the Federal Constitution. (Transit in Judged)

Theme 648 - Competence of the Federal Court to prosecute and judge transnational environmental crimes.

Theme 774 - Legislative competence, whether private to the Union or competitor, for the adoption of public policy aimed at compelling the electric energy concessionaire to promote investments, with resources from a portion of the operating revenue earned, aimed at the protection and environmental preservation of water sources in which exploration takes place. (Judgment on merits published)

Theme 970 - Analysis of the formal and material unconstitutionality of municipal law that provides for the environment. (General Repercussion Judgment published)

Theme 999 - No statute of limitations for claiming civil damages for environmental damage.

CONCLUSIONS

The public hearing is an instrument of participatory democracy that allows the population to participate in the decision-making process of public affairs, and can be convened by any of the constituted powers, being certain that this research was based on public hearings convened within the scope of constitutional jurisdiction, that is, before the Brazilian Constitutional Court (STF), and specifically related to the environment.

The present study revealed that, despite the legal instruments and the status of a fundamental right inaugurated by CF 88, more than 30 years ago, our justice system has not ensured its effective defense until the present day.

Stating categorically that the speech of the specialists heard in the public hearing was fundamental for the reasons for the STF Ministers decision would not have solid bases since, as it was seen by the interviews, the lack of knowledge regarding the public hearings convening/participation was pointed out by the three groups as the main cause of the inexpressive academic participation.

However, it cannot be refuted that the transcription of excerpts cited by professionals, whose Lattes curricula really corroborated their contributions, had relevant scientific content, foreign to the technical-legal knowledge of the judges, thus adding necessary information to clarify the facts.

It was observed that, if on the one hand, the transnationality of the environmental issue is relevant for the exchange of knowledge, as we have seen from the participation in the public hearings of Dr. David

Bernstein, PhD in Environmental Medicine and Toxicology from the New York University Institute of Environmental Medicine, at the public hearing on the ban on use of asbestos (ADPF 101), and Italian physicist Dr. Paolo Vecchia, Professor at the University of Rome and former chairman of the International Commission on Non-Ionizing Radiation Protection (ICNIRP) and former advisor to the Board of the International Committee on the EMF Project of the World Health Organization (WHO), on the topic of the electromagnetic field of power transmission lines; on the other hand, it can also indicate the lack of national experts on the subjects dealt with or, what would be worse, the lack of interest of the Brazilian academy in dealing with such relevant internal environmental issues.

Interdisciplinarity is a striking feature in public hearings, since the professionals consulted were from the most diverse areas of knowledge and who brought their contributions, notably when the environment must be observed under the pillars of sustainable development.

The delay between the public hearings and the judgment on the case merits is a concerning factor, since there is possible damage to the environment that protracts over time and its repair can be difficult or unfeasible to manage.

The public hearing held on the burning of sugarcane fields, despite the fact that 61% of the sugarcane cultivation areas are in Pernambuco and Alagoas - the largest producers in the Northeast, there was no participation from any university in these two states, no local specialist to talk about the theme was heard. Again, the lack of knowledge regarding the call/participation is a matter of civic education and guidance/instruction of the academy itself.

There was no mention of the UN's 2030 agenda in any full content that was the object of analysis, despite some judgments that include the SDGs, which are part of the 2030 agenda, referring to the analyzed material law issues.

We observed that the adaptability of the judiciary and civil society in this new scenario of the pandemic is a relevant question, since important public hearings took place even in the period of suspension of face-to-face activities, such as those of the climate fund and the Amazon fund.

Another highlight is the publicity of public hearings via youtube channel in real time, which is not common to all constitutional courts. Furthermore, access to information is easy and complete on a specific page dedicated to the public hearings held, with all the data relating to the process.

The questions above reflect traits of the digital democracy towards which we are heading and of which citizen participation is of fundamental importance in this context, notably in matters related to the environment.

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